

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC MAIL SECTION

MM Docket No. 93-263

OCT 18 5 20 PM '93

DISPATCHED BY

In re Applications of

DESOTO
BROADCASTING CORP.
(hereafter "DBC")

File No. BPH-920324ME

CARY D. CAMP
(hereafter "Camp")

File No. BPH-920402MI

MITCHELL TYNER
(hereafter "Tyner")

File No. BPH-920403MA

For Construction Permit for a
New FM Station on Channel 284C3
in Mansfield, Louisiana

HEARING DESIGNATION ORDER

Adopted: October 5, 1993;

Released: October 18, 1993

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. DBC. Section II, Item 6 of FCC Form 301 (June 1989) requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. Also, Section III, Item 3 of the form requires that an applicant specify each source of funds, including the name, address, telephone number, contact person if the source is an entity, any relationship of the source to the applicant, and the amount of funds to be supplied by each source. DBC has not completed these items correctly. DBC's application gives a post office box number as the residence address for Robert L. Clifford, who is listed as both a 75 percent stockholder of DBC, as well as its president, and as its sole source of funds. Accordingly, DBC must file an amendment which gives all the information required by Section II, Item 6 and Section III, Item 3 with the presiding Administrative Law Judge after this Order is released.

3. Camp. Section II, Items 1-5 (page 2) of Form 301 (June 1989) was not included in Camp's application. These omissions are not tenderability or acceptability defects. Accordingly, Camp must file an amendment which provides Section II, Items 1-5 (page 2) with the presiding Administrative Law Judge after this Order is released.

4. Data submitted by the applicants indicate there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and population which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such

areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. ACCORDINGLY, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.
2. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

7. IT IS FURTHER ORDERED, That DBC shall submit an amendment which contains the information required by Section II, Item 6 of FCC Form 301 to the presiding Administrative Law Judge within 30 days of the release of this Order.

8. IT IS FURTHER ORDERED, That DBC shall submit an amendment which contains the information required by Section III, Item 3 of FCC Form 301 to the presiding Administrative Law Judge within 30 days of the release of this Order.

9. IT IS FURTHER ORDERED, That Camp shall submit an amendment which contains Section II, Items 1-5 (page 2) of FCC Form 301 to the presiding Administrative Law Judge within 30 days of the release of this Order.

10. IT IS FURTHER ORDERED, That a copy of each document filed in this proceeding subsequent to the date of adoption of this Order shall be served on the counsel of record in the Hearing Branch appearing on behalf of the Chief, Mass Media Bureau. Parties may inquire as to the identity of the counsel of record by calling the Hearing Branch at (202) 632-6402. Such service shall be addressed to the named counsel of record, Hearing Branch, Enforcement Division, Mass Media Bureau, Federal Communications Commission, 2025 M Street, N.W., Suite 7212, Washington, D.C. 20554. Additionally, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall also be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Federal Communications Commission, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

11. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order. Pursuant to Section 1.325(c) of the Commission's Rules, within five days after the date established for filing notices of appearance, the applicants shall serve upon the other parties that have filed notices of appearance the materials listed in: (a) the Standard Document Production Order (see Section 1.325(c)(1) of the Rules); and (b) the Standard-

ized Integration Statement (see Section 1.325(c)(2) of the Rules), which must also be filed with the presiding officer. Failure to so serve the required materials may constitute a failure to prosecute, resulting in dismissal of the application. See generally *Proposals to Reform the Commission's Comparative Hearing Process* (Report and Order in Gen. Doc. 90-264), 6 FCC Rcd 157, 160-1, 166, 168 (1990), *Erratum*, 6 FCC Rcd 3472 (1991), *recon. granted in part*, 6 FCC Rcd 3403 (1991).

12. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau